

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 97-0432**

**Use Tax  
Calendar Year 1995**

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**ISSUE(S)**

I. **Use Tax** – Agricultural Equipment Exemption

**Authority:** 45 IAC 2.2-5-6; 45 IAC 2.2-3-4; 6-2.5-5-2

Taxpayer protests the assessment of use tax on the purchase of a post hole driver.

**STATEMENT OF FACTS**

Taxpayer protests the use tax assessed on a post hole driver and states that the driver is used in the direct production of beef cow operations. It is used to build fences to keep the animals in the pasture for grazing, for feeding pens, and for corrals to work the cattle (for example – breeding, vaccinations, and ear tagging).

I. **Use Tax** – Agricultural Equipment Exemption

**DISCUSSION**

At issue is whether the taxpayer's purchase of a post hole driver is exempt from tax.

Taxpayer provided the vendor with an exemption certificate to purchase a posthole driver and states it is used in the direct production of beef cow operations.

45 IAC 2.2-5-3 (b) states:

In general, purchases of tangible personal property by farmers are taxable. The exemption provided by this regulation (45 IAC 2.2) apply only to seeds, fertilizers, fungicides, insecticides, and other tangible personal property to be directly used by the farmer in the direct production of food and agricultural commodities. This exemption is limited to “farmers.”

45 IAC 2.2-5-4 (c) does not allow exemption for graders, ditchers, front-end loaders, or similar equipment (except equipment to haul animal waste).

45 IAC 2.2-5-4 (e) further states:

The fact that an item is purchased for use on the farm does not necessarily make it exempt from sale (sic.) tax. The farmer in the direct production of agricultural products must directly use it. The property in question must have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process, which produces agricultural products. The fact that a piece of equipment is convenient, necessary, or essential to farming is insufficient in itself to determine if it is used directly in direct production as required to be exempt.

45 IAC 2.2-5-3 (d) (7) states:

Tangible personal property purchased by a farmer for use in general farm maintenance of taxable items is taxable.

45 IAC 2.2-5-4(c) taxes all tools including forks, shovels, hoes, welders, power tools, and hand tools; graders, ditchers, front end loaders, or similar equipment (except equipment designed to haul animal waste).

### **FINDING**

Taxpayer's protest is denied. The use tax pertains to uses that would not qualify for the exemption.